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5 Attorney for Plaintiffs  
DAREN HEATHERLY  
6 and IRMA RAMIREZ

7 UNITED STATES DISTRICT COURT

8 NORTHERN DISTRICT OF CALIFORNIA

9 DAREN HEATHERLY; and DAREN )                   **CASE NO. CV-14-00768-NC**  
10 HEATHERLY, )  
11 Plaintiffs, )                   STIPULATION and [PROPOSED] ORDER  
12 v. )                   TO CONTINUE CASE MANAGEMENT  
13 WYVERN RESTAURANTS, INC., dba ) CONFERENCE  
14 ROUND TABLE PIZZA; and GARY L. )  
15 SIMMONS and SALLYN SIMMONS, as )  
16 Trustees of the Simmons 2011 Family )  
Trust, u/d/t July 7, 2011, )  
17 Defendants. )  
18 \_\_\_\_\_ )

19  
20  
21 Plaintiffs DAREN HEATHERLY and IRMA RAMIREZ, and defendants WYVERN  
22 RESTAURANTS, INC., dba ROUND TABLE PIZZA; and GARY L. SIMMONS and SALLYN  
23 SIMMONS, as Trustees of the Simmons 2011 Family Trust, u/d/t July 7, 2011, by and through  
24 their respective attorney of record, hereby stipulate to continue the Case Management set for  
25 February 4, 2015, at 10:00 a.m.

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STIPULATION and [PROPOSED] ORDER TO CONTINUE CASE MANAGEMENT CONFERENCE CASE NO. CV-14-00768-NC

1       1.     **Whereas**, plaintiffs counsel believed this action was settled in its entirety with  
2 then defense counsel, Catherine Corfee, after three (3) settlement drafts; and

3       2.     **Whereas**, defendants substituted new defense counsel, Scott Lewis, was  
4 substituted in on January 27, 2015; and

5       and     3.     **Whereas**, Scott Lewis has represented that he does not have his clients' file yet;  
6                  4.     **Whereas**, Scott Lewis needs the file in order to advise his clients; and

7       5.     **Whereas**, Scott Lewis has asked plaintiffs' counsel, Thomas E. Frankovich, to  
8 stipulate to continue the Case Management Conference; and

9       6.     **Whereas**, a Mediator has been assigned to this case; and

10      7.     **Whereas**, plaintiffs' counsel has no objection to continuing the Case  
11 Management Conference set for February 4, 2015, but is concerned that the only available dates  
12 he has on his calendar is March 3, 2015, March 10, 2015, March 12, 2015 and March 16, 2015,  
13 due to the fact, that he has a judge assigned to try a case on the specific dates of: February 16,  
14 2015 through February 27, 2015, and is out of the country from March 19, 2015 through May 5,  
15 2015; and

16      8.     **Whereas**, Scott Lewis has a planned vacation through May of 2015. It's  
17 stipulated and requested that the Case Management Conference be set/continued to March on  
18 one of the following dates: March 3, 2015, March 10, 2015, March 12, 2015 and March 16,  
19 2015, or continued sometime in June of 2015; and

20      9.     **Whereas**, the respective attorneys will try and settle this matter by March 18,  
21 2015; and

22      10.    **Whereas**, realistically, the parties may have to ask the ADR Magistrate Judge to  
23 allow a mediation to be concluded by the third (3<sup>rd</sup>) week of June 2015.

24       It is stipulated and requested that the Case Management be scheduled in June of 2015.

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This stipulation may be executed in counterparts and all executed counterparts shall be binding upon all parties notwithstanding that signature of all parties designated representatives do not appear on the same page. Photocopies and facsimile shall have the same force and effect as originals.

Respectfully submitted,

Dated: January 28, 2015

THOMAS E. FRANKOVICH,  
**A PROFESSIONAL LAW CORPORATION**

By: /s/Thomas E. Frankovich  
Thomas E. Frankovich  
Attorney for Plaintiffs DAREN HEATHERLY and  
IRMA RAMIREZ

Dated: January 28, 2015

**PERRY, JOHNSON, ANDERSON  
MILLER & MOSKOWITZ LLP,**

By: /s/Scott A. Lewis  
Scott A. Lewis  
Attorneys for Defendants WYVERN  
RESTAURANTS, INC., dba ROUND TABLE  
PIZZA; and GARY L. SIMMONS and SALLYN  
SIMMONS, as Trustees of the Simmons 2011  
Family Trust, u/d/t July 7, 2011

**[PROPOSED] ORDER**

Good cause appearing, IT IS SO ORDERED. The case management conference is continued to June 3, 2015 at 10:00 a.m. Updated case management statement due one week prior to conference. The parties to file a joint update on the status of settlement by March 25, 2015.

Dated: January 29, 2015

Honorable Nathanael M. Cousins  
California United States Magistrate Judge

